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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,482	03/01/2004	Dean A. Wieting	790063.00030	9513

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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

EXAMINER

DEUBLE, MARK A

ART UNIT	PAPER NUMBER
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3651

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/790,482

Applicant(s)

WIETING ET AL.

Examiner

Mark A. Deuble

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/14/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claims 1, 5-8, 13, and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Palmaer et al. (U.S. Patent No. 5,224,583).

Palmaer et al. shows a modular conveyor belt assembly 10 having a first conveyor module 12 and a second conveyor module 14 both of which include a top surface formed by the transversely extending central member of the modules. The top surface is defined by a leading edge and a trailing edge joined by side edges. Both the conveyor modules have a plurality of first hinge members 24 extending forwardly in a direction of conveyor travel from the leading edge and a second hinge members 26 extending rearwardly in a direction opposite to the first

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hinge member from the trailing edge. Both the first and second hinge members have openings 30/32 defining first and second spaces extending along an axis transverse to the direction of conveyor travel which are substantially aligned with each other for receipt of hinge pins 28 extending therethrough. Partially surrounding the openings in the first and second hinge members are projections 35 which form stubs extending from the hinge members in first and second transverse directions. As can be seen in Fig. 4, the projections may be circular so that they would be capable of having a roller rotatably mounted thereon for rotation around the first space and the hinge pin. Thus, while the stubs on the conveyor belt modules of Palmaer et al. do not actually have rollers mounted thereon, they meet the intended use limitation of claim 1 that the stub is "for rotatably mounting a roller thereon for rotation around the first space".

Therefore, Palmaer et al. shows all the structure required by claims 1, 5-8, 13, and 17-20.

2. Claims 1-4 and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilkins et al. (U.S. Patent No. 5,746,305).

Wilkins et al. shows a modular conveyor belt assembly 14 having a first conveyor module formed by the outer members 34 of the conveyor and a second conveyor module formed by the inner members 35 of the conveyor (see Fig. 3). Both the conveyor modules form a plurality of first hinge members extending forwardly from the center of the member in a direction of conveyor travel and a second hinge members extending rearwardly from the center of the member in a direction opposite to the first hinge member. Both the first and second hinge members have openings defining first and second spaces extending along an axis transverse to the direction of conveyor travel which are substantially aligned with each other for receipt of hinge pins 42 extending therethrough. As can be seen in Fig. 10, a stub surrounds the openings

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in the first hinge members and the hinge pins 42. The stubs extend from the hinge members in first transverse direction to the right of the conveyor. The stubs have rollers 61 mounted thereon which extend above and below the conveyor 14. Thus Wilkins et al. shows all the structure required by claims 1-4 and 13-16.

3. Claims 1-2 and 13-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Tanabe et al. (U.S. Patent No. 6,527,106).

Tanabe et al. shows a modular conveyor belt assembly 10 having first and second conveyor modules formed by members 34 and 36 on adjacent conveyor belt modules (see Fig. 6). Both the conveyor modules form a plurality of first hinge members extending forwardly from the center of the member in a direction of conveyor travel and a second hinge members extending rearwardly from the center of the member in a direction opposite to the first hinge member. Both the first and second hinge members have openings 34A/36A defining first and second spaces extending along an axis transverse to the direction of conveyor travel which are substantially aligned with each other for receipt of hinge pins 41 extending therethrough. A stub 37 surrounds the openings in the first hinge members and the hinge pins 41. The stubs extend upwardly from the hinge members in first transverse direction. The stubs have rollers rotatably mounted thereon for rotation around the first space. Thus Tanabe et al. shows all the structure required by claims 1-2 and 13-14.

Allowable Subject Matter

4. Claims 9-12 and 21-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Clopton and Layne et al. both show modular conveyor belt assemblies with roller mounted around the hinge pins connecting adjacent conveyor belt modules in a fashion similar to that of the present invention.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Deuble whose telephone number is (703) 305-9734. The examiner can normally be reached on Monday through Friday except for alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher P Ellis can be reached on (703) 308-2560. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

md



EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600